IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

Writ Petition No.454 of 2005

Shri Shantaram Y Yadav and ors..Petitioners
vs
State of Mah and ors...Respondents

Mr.N.V.Bandiwadekar for petitioners
Mr.Y D Mulani AGP for respondent nos l to 5
Mr. P B Shah for respondent nos. 6 to l3

CORAM: A.P.SHAH & D.Y.CHANDRACHUD JJ.
Dated 30.6.2005

P.C:

. Rule. Mr. Y D Mulani, learned AGP for respondent nos l to 5 and Mr. P.B.Shah, learned counsel for respondent nos. 6 to l3 waive service. By consent, Rule is made returnable forthwith.

2 The petitioners' land came to be acquired by the State Government for Uttarmand Medium Project. As the petitioners' agricultural land got submerged in water on account of the aforesaid project the petitioners were allotted alternate land for resettlement on 6.6.200l which were earlier owned by respondent nos.6 to l2. The possession of the said lands was given to the petitioners on l8.6.200l and the revenue record was altered accordingly vide Mutation Entry no.2227 recording the names of the petitioners in respect of the said

lands. It is the case of the petitioners that respondents nos. 6 to l2 started causing obstruction to the possession and cultivation of the petitioners and therefore the petitioners were constrained to file Regular Civil Suit No. l53 of 2002 against the said respondents in which the trial court has granted ad-interim temporary injunction against the said respondents.

3. On 3.12.2002 the respondent no. 2 Dy Director, Resettlement (Lands) passed the impugned order dated 3.l2.2002 canceling the order of allotment dated 6.6.200l under which the lands were allotted to the petitioners. No notice was given to the petitioners before canceling the order of allotment. It appears that pursuant to the said order the Circle Officer certified the Mutation Entry No.2249 and the name of the respondent no.2 was entered in the record of rights. It is alleged by the petitioners that on the basis of cancellation of the mutation entry the respondent nos.6 to l2 again started causing obstruction to the petitioners possession. The petitioners therefore filed Civil Suit No.80 of 2002 for permanent injunction against respondent nos. 6 to l2.

4. The petitioners also preferred Writ Petition No.547l of 2003 challenging the action of cancellation of allotment. The Division Bench vide order dated 26.8.2003 directed the authorities to furnish copies of orders passed by them and observed that it would be open to the petitioners to take appropriate steps against the said orders. Inspite of the above directive issued by this Court the authorities refused to supply copies of orders on the ground that it was part of the internal correspondence between two offices and therefore copies of the orders could not be supplied to the petitioners. The petitioners then preferred a revision application to the Additional Commissioner challenging the order passed by the respondent no.2 canceling the allotment of lands to the petitioners. By order dated l7.ll.2004 the Addl Commissioner rejected the revision application preferred by the petitioners The legality and propriety of these orders is questioned in this petition.

5. We have heard the learned counsel for the parties. We have gone through the affidavit filed on behalf of the respondent nos.l to 5. It is

inter alia contended that the land which was acquired from respondent nos. 6 to l3 was for the foundation of the project for which acquisition was made at the initial stage whereas the land which was acquired from the present petitioners was in the later phase of the project and as such the order of allotment was cancelled. We have serious doubt whether the allotment already made in favour of the petitioners can be revoked in this fashion on the basis of the alleged priority. However, we need not go into this aspect as in our opinion the impugned order of the respondent no.2 is liable to be quashed as it was issued in total violation of principles of natural justice. It was highly improper on the part of the respondent no.2 to cancel the allotment without giving a prior notice and granting them an opportunity of personal hearing.We therefore quash and set aside the impugned order passed by the respondent no.2 as well as the Mutation Entry 2249 which has been effected pursuant to the said order dated 3.l2.2002. The order of the revisional authority dated l7.l.2004 is also quashed and set aside. The matter is remitted back to the respondent no.2 for deciding it afresh after following the principles of natural justice. In case any adverse order is

passed against the petitioners same will not be implemented for a period of four weeks from the date of its communication to the petitioners. Petition stands disposed of.